

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6896 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GANPAT HAKJI VAGELA

Versus

DISTRICT MAGISTRATE

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Appearance:

MS SUBHADRA G PATEL for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

By way of this special civil application the petitioner has challenged the order of detention dated 2.5.1996 passed by the District Magistrate, Banaskantha

at Palanpur, under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as the PASA Act).

2 The learned counsel appearing for the petitioner submits that out of various grounds she intends to press only one ground which is sufficient for the success of the present special civil application. It is submitted that the detaining authority in the order of detention dated 2.5.1996 has specified the period of detention by saying that the petitioner shall be detained for a period of one year from the date of the order. It is contended that when the detaining authority says that the detention is for one year, it would be contrary to the provisions of the PASA Act and it requires approval of the State Government within 12 days. She further submits that said order is contrary to the express provisions of Article 22(4) of the Constitution inasmuch as without the opinion of the Advisory Board of having sufficient ground for detention no person can be detained for more than three months and the impugned order directly detaining the detenu for one year is therefore contrary to the provisions of the PASA Act. Reliance is placed on the decision of this Court reported in 1993 1 GCD page\_\_\_\_.

3 The factual position is not disputed. This matter is clearly covered by the decision of this Court referred to above. In view of the aforesaid, the special civil application is allowed. The order of detention dated 2.5.1996 is quashed and set aside. It is directed that the petitioner shall be released forthwith if not required in any other case. Rule is made

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